

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

IN RE:)	In Proceedings Under
)	Chapter 7
CHEMETCO, INC.,)	
)	BK 01-34066
DEBTOR.)	

**JOINT RESPONSE TO OBJECTIONS OF OLIN CORPORATION AND INTERCO
TRADING COMPANY TO APPLICATION OF THE CHAPTER 7 TRUSTEE TO
APPROVE SETTLEMENT**

NOW COME creditors the United States of America, on behalf of the U.S. Environmental Protection Agency, and the Illinois Environmental Protection Agency, by Lisa Madigan, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency, who jointly respond to certain objections made by Olin Corporation and Interco Trading Company to the Application to Approved Settlement filed by Donald Sampson, the Chapter 7 Trustee (“Objectors”).

**I. THE SETTLEMENT AGREEMENT PROPERLY RESTRUCTURES THE
ESCROWED FUNDS PROVISION**

The United States and the Illinois EPA hereby respond to the objections raised pertaining to the escrow fund for environmental remediation, first required by Section 5.2. of the Asset Purchase and Processing Agreement (“APPA”) executed on July 29, 2009 and approved by the Court by Order dated September 21, 2009 (Doc. 1157). In that regard, the Objectors state:

17. . . . [T]he 5% to be placed in the Escrow Fund for environmental remediation pursuant to Section 5.2 of the APA will be reduced under the Settlement Agreement because it is calculated after the gross revenue is reduced by the Buyer Fee. Because the Buyer Fee has increased by 10%, the 5% set aside for the Escrow Fund will be taken from a smaller pot. The Escrowed Funds are set aside to insure the bankruptcy estate and the creditors don't have to pay for remediation issues caused by Paradigm in the event of Paradigm's default. In light of this, any reduction of the payments into the Escrowed Fund would be in violation of the APA and could potentially put the estate at risk.

Olin Objection, ¶17, at 4-5.

2. . . . The Settlement Agreement excludes any consideration of parties which previously have alleged to be Potentially Responsible Parties by IEPA and

USEPA pursuant to Notices issued on or about November 30, 2011 and February 17, 2012. Interco is such an allegedly Potentially Responsible Party

3. . . . [P]arties who previously had contact with the Chemetco site should be included and considered in conjunction with the Settlement Application and its related underlying documents. Specifically and without limitation, Interco respectfully submits that a fair and reasonable percentage of any of the proceeds of any sales of product and materials at the Chemetco site should be dedicated to any costs of remediation for any alleged actions occurring before the filing of the Chemetco case. Interco believes that there is substantial value to the product and materials remaining on the Chemetco site in the amount of millions of dollars potentially sufficient to cure any alleged remediation costs and expenses. The Settlement Application and underlying Settlement Agreement, however, dedicate mandatory distribution of all proceeds to events occurring after the date of the Agreement and the Settlement Agreement further provides with respect to events occurring prior to the filing of the Chemetco bankruptcy that only if there are excess proceeds remaining after the termination of the Settlement Agreement such proceeds “may be used to remediate any environmental problem or conditions existing on the site prior to the filing of Chemetco’s bankruptcy proceeding” (Emphasis added) Paragraph 1.5.2(d) of the Settlement Agreement. Interco respectfully submits that failure to dedicate a fair and reasonable portion of the proceeds from material remaining on the site to a mandatory fund to remediate any conditions existing at the site prior to the filing of the Chemetco bankruptcy is improper. Furthermore, for USEPA and/or IEPA to hold and control substantial funds potentially for years without an obligation to make substantial potentially for years without an obligation to make distribution for remediation of pre-filing events is prejudicial to the alleged PRPs and improper.

Interco Objection, ¶¶ 2-3, at 1-2.

The United States and the Illinois EPA respond that the objections of Olin and Interco, while well intentioned and understandable, are, for the most part, somewhat misplaced and erroneous, several reasons:

The over-arching principle to be considered when considering the objections to the Escrow Account is the intent of the Trustee. In this regard, both Olin and Interco focus on: 1) the distribution of the net revenue that has been and will be derived from the Trustee’s sales of Scrap assets, and Processing Revenue (derived from the sales of scrubber sludge, slag and “Recovered Materials” (materials resulting from the Paradigm process); and 2) that proposed

revised Section 5.2 of the APPA, as set forth in the proposed Settlement Agreement does not mandate that funds be set aside for the cleanup of the Chemetco site. They conclude that the proposed (revised) agreed distribution is unfair to parties, such as Olin and Interco, who may be found liable for the costs of the cleanup of the Site under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601, *et seq.* (“CERCLA”). What the Objectors have failed to consider is that the material sales, such as those previously approved by the Bankruptcy Court, have two primary purposes: 1) to satisfy the claims of the creditors in accordance with bankruptcy law; and 2) with specific regard to the process activities to be undertaken by Paradigm - - to reduce the huge amount of the hazardous materials, particularly ~~such as~~ slag, that are present on-site - - and thus drive down the scope, and cost, of the response actions that U.S. EPA, pursuant to CERCLA, determines to be necessary at the Site.

Olin suggests that there is something nefarious in the creation of the Escrow Account - - which was established to insure that funds would be available to address environmental problems associated with Paradigm’s activities. In particular, Olin asserts, “[t]he Escrowed Funds are set aside to insure the bankruptcy estate and the creditors don't have to pay for remediation issues caused by Paradigm in the event of Paradigm's default.” Olin Objection, ¶17, at 4-5. Olin provides no support for this assertion. Moreover, Olin does not explain what standing a creditor in its position has to challenge those measures the Trustee has selected, and the Bankruptcy Court has approved, to protect himself and the Estate from possible liability flowing from efforts to dispose of Estate Assets. A failure to exercise such prudence subjects the Estate to even greater losses and carping from creditors about the losses resulting from the failure to do so.

As to the purposes for which the Escrow Funds were set aside, the original (2009) APPA provided:

Any amounts directed to be held by Trustee pursuant to Sections 4.4(a)(i) and 4.4(b)(i) hereof, [*i.e.*, 5% of the Processing Revenue] shall be held by Trustee in an interest bearing account for the benefit of Seller and Buyer ("Escrowed Funds"); provided, however, in no event shall the aggregate amount of the Escrowed Funds exceed \$10,000,000.00. Any costs and expenses associated with any remediation issues raised by any Regulatory Agency during the term hereof shall be paid from the Escrowed Funds. At such time as the EPA has issued all appropriate "no further remediation" letters and said letters have been received by-Seller, any remaining Escrowed Funds shall be paid to equally to Buyer and Seller.

2009 APPA, §5.2, at 7.

Thus, the original purpose of the Escrowed Funds was to address “remediation issues” raised by U.S. EPA and IEPA during the term of the APPA. Although, perhaps inartfully drafted, the intent of the parties who negotiated the APPA was to make sure that any environmental problems caused by Paradigm, could be addressed, and that any leftover moneys would be distributed to Paradigm (the “Buyer”) and the Trustee (the “Seller”). At that time, it was not contemplated that the Escrowed Funds would be used to address pre-bankruptcy environmental issues.

The provisions of the 2009 APPA applicable to the Escrowed Funds was clarified in several respects by the Court’s September 21, 2009 “Order Approving and Clarifying the Asset Purchase and Processing Agreement, which provided in pertinent part:

3. a. The clause "remediation issues" contained in Section 5.2 of the [APPA] refers to those matters requiring corrective action or response or remedial activities as a result of occurrences of non-compliance with Work Plans or ARARs during the performance of processing or other activities authorized by the Purchase Agreement, such as spills of materials. It was not the intent of the Buyer or the Trustee to include in this definition any environmental remediation issues previously existing on the real property caused by or amplified by a prior owner or occupier of the real property.

b. The purpose of the Escrowed Funds is to secure performance of the Buyer in any remediation required as a result of occurrence during the performance of the Purchase Agreement. The Buyer's performance will be further secured by performance bonds as may be necessary initially until such time as the Escrowed

Funds are sufficient to provide adequate financial assurance to the Illinois Environmental Protection Agency. The Buyer has also agreed to purchase an environmental insurance policy in the amount of \$10,000,000.00.

c. . . . The Escrowed Funds will remain in escrow until all appropriate closure or termination letters have been issued by the appropriate agency, be it the Illinois Environmental Agency or the U. S. Environmental Protection Agency.

d. Notwithstanding the foregoing, the Buyer and the Trustee have agreed to amend the Purchase Agreement to provide that any Escrowed Funds (as defined in the Purchase Agreement) remaining after the termination of the Agreement for whatever reason and after those funds have been used to remediate any new environmental non-compliance conditions caused by the Buyer or Trustee subsequent to this Order, shall be used to remediate any environmental problem or condition existing on the site prior to the filing of this bankruptcy proceeding.

September 21, 2009 Order (Doc. 1157), ¶ 3(a)-(d), at 2-3.

The September 21, 2009 Order retained and expanded Section 5.2 of the APPA, and clearly stated that the Escrowed Funds, at first, were not intended to address pre-existing environmental conditions. September 21, 2009 Order (Doc. 1157), ¶3(a), at 2. However, the September 21, 2009 Order addressed that situation in several ways. First, paragraph 3.b. clearly states that the purpose of the Escrowed Funds is to “secure performance” of the Buyer in any response action that might be required as a result of Paradigm’s performance of the APPA. Second, recognizing that it might default before there are revenues sufficient to accumulate \$10 million in Escrowed Funds, Paradigm agreed, also in Paragraph 3.b., to purchase an environmental insurance policy in the amount of \$10 million. And finally, paragraph 3.d. of the September 21, 2009 Order provides that any Escrowed Funds remaining after Paradigm/Trustee-caused environmental issues are addressed – will be used to respond to any environmental conditions that predated the Chemetco bankruptcy.

The proposed Settlement Agreement would amend the provisions of the APPA pertaining to the Escrowed Funds in several important respects. First, Section 2.g. and h. would remove the \$10 million cap on the Escrowed Funds, as follows:

g. Section 4.4(a) of the Agreement is revised by adding "(i) For sales made prior to March 31, 2012," at the start of the current subparagraph, deleting the last sentence of that subparagraph, and by adding the following subparagraph:

"(ii) For sales on or after March 31, 2012, so long as a balance remains on the Smelter Purchase Price, and after the Buyer Fee is paid to Buyer and the Operating Expenses are reimbursed, the Sale Revenue shall be distributed by Seller as follows: (i) 5% to Trustee to be transferred by Trustee pursuant to Section 5.2 of the Agreement with no cap or limit on the aggregate amount of such Escrowed Funds; (ii) 15% to Buyer; (iii) 40% to Seller to be applied to the Smelter Purchase Price; and (iv) 40% to Commerce Bank to satisfy Commerce Bank's valid and first priority lien against Mixed Fines, Slag, Scrubber Sludge and Recovered Materials, which amount shall be applied to the Smelter Purchase Price."

h. Section 4.4(b) of the Agreement is deleted in its entirety and replaced with the following:

"(b) Following payment in full of the Smelter Purchase Price, so long as there remains a balance due on the NPR Purchase Price, and after the Buyer Fee is paid to Buyer and the Operating Expenses are reimbursed, the Sale Revenue shall be distributed by Seller as follows: (i) 5% to Trustee to be transferred by Trustee pursuant to Section 5.2 of the Agreement with no cap or limit on the aggregate amount of such Escrowed Funds; (ii) 15% to Buyer; (iii) 30% to Seller to be applied to the NPR Purchase Price; and (iv) 50% to Seller, which shall not be applied to the NPR Purchase Price."

Settlement Agreement, ¶2.g., h. (underlining added).

Olin notes that the increase in the amount to be paid to Paradigm (the "Buyer Fee" to which Olin refers (Olin Objection, ¶17, at 4)), will decrease the amount of the Escrowed Funds. However, this assertion is inaccurate because the parties agreed to remove the original \$10 million cap on the amount of the Escrowed Funds – in an effort to insure that funds would be available to undertake a variety of environmental response actions should the previously set aside \$10

million prove to be insufficient to address environmental problems that might be caused by Paradigm/ Trustee. This was an important change in the overall agreement, as was the increase in the amount of Paradigm's share of gross revenue (from 30% to 40%), which was required to insure that Paradigm could remain solvent while it was developing its process. In fact, the governments proposed the lifting of the cap in exchange for an increase in Paradigm's take of the gross revenue – and the governments believe that both aspects of that agreement inure to the benefit of all parties. Furthermore, as will be described below, other changes made by the Settlement Agreement, and through the March 9, 2010 Motion to Clarify the Asset Purchase and Processing Agreement (Doc. 1426) (approved by Order dated May 4, 2010 (Doc. 1528), will increase the amount of net revenue available for distribution to the Escrowed Funds and the Estate.

Section 2.1 of the Settlement Agreement would amend APPA Section 5.2 again, to further clarify the purpose of the Escrowed Funds:

5.2 (a) Any amounts directed to be transferred by Trustee pursuant to Section 4.4(a)(i), 4.4(b)(i), and 4.4(c)(i) hereof shall be transferred by Trustee into an interest bearing account for the benefit of USEPA and IEPA as described in subparagraph (d) of this Section ("Escrowed Funds").

(b) The purpose of the Escrowed Funds is to fund, upon approval of USEPA after consultation with the State, performance of any environmental response actions that may be required as a result of performance by Seller's, Paradigm's or its contractor's work. After Escrowed Funds have been used by Paradigm, for environmental response actions, Seller or Paradigm may access such funds to fund, upon approval of EPA after consultation with the State, for the: (i) closure and postclosure of all units used to store, manage, and process the Recovered Materials and/or Unprocessed Materials; (ii) disposal of all Recovered Materials and/or Unprocessed Materials that are in process but are not yet sold and any accumulated process wastes; (iii) decontamination of all equipment and buildings used in such processes; and (iv) any professional fees, related to the activities described in subsections (i) - (iii) of this subparagraph.

(c) The unutilized Escrowed Funds shall remain in escrow until all appropriate "no further remediation" letters have been received by Seller. As used in this

Section 5.2(c), the phrase "all appropriate 'no further remediation' letters" is not a specific reference to a "No Further Remediation Letter" pursuant to Section 58.10 of the Environmental Protection Act but rather a generic reference to any appropriate closure or termination letter issued by an agency with jurisdiction over the remediation in question.

(d) Any Escrowed Funds remaining after termination of the Agreement for whatever reason and after such Escrowed Funds have been used to remediate any new environmental non-compliance conditions caused by Buyer or Seller after September 21, 2009, may be used to remediate any environmental problem or condition existing on the site prior to the filing of Chemetco's bankruptcy proceeding.

Interco is correct in observing that proposed new Section 5.2(b) would provide that the Escrowed Funds "may be used" to address pre-bankruptcy environmental problems, and thus would not require that the Escrowed Funds be used for such purposes. However, this is merely a discrepancy. Par. 3(d) of the September 21, 2009 Order, discussed above, requires the Trustee and Paradigm to amend the APPA to provide that the Escrowed Funds "shall" be used to remediate any environmental problem or condition existing on the site prior to the filing of this bankruptcy proceeding." The revision to APPA Section 5.2 in the proposed Settlement Agreement was intended to implement that requirement, but an error in transcription occurred with the result that the phrase term "may be used" inadvertently supplanted "shall be used." With the court's permission, that error will be corrected by interlineations.

Further evidence of that error can be found in proposed APPA Section 5.2(c). Under that section, the Escrow Funds that are unutilized after completion of the actions authorized by Section 5.2(b) would remain in escrow until all appropriate "no further remediation letters" have been received by the Trustee from IEPA and/or U.S. EPA, meaning that the remaining Escrow Funds would be used to address any environmental problems at the Site. Similarly, in the event that the Agreement is terminated, any remaining Escrow Funds would be used to address environmental problems that predate the bankruptcy. Since Section 5.2(c) would be amended to

delete the possibility of returning the Escrowed Funds to Paradigm and the Estate, there is no other use authorized for the Escrowed Funds – other than environmental response actions.

While the governments understand the Objectors' concerns about the distribution of revenues, there is no question that Paradigm was brought on to the Site to both maximize the revenue available to satisfy the creditors' claims and to remove as much of the on-site hazardous substances as possible – which would reduce the amount of money required to fund EPA's selected response actions, and, ultimately, reduce the costs that would be passed on to parties found to be liable under CERCLA. Interco objects to the fact that the Escrowed Funds will be used in the first instance to address any environmental problems that would be caused by Paradigm, and asserts that it would be fairer to mandate that a portion of those funds be used to address pre-bankruptcy environmental conditions. However, Interco does not discuss why it would be fairer to use the Escrowed Funds to address pre-bankruptcy problems, nor does it explain why Chemetco's creditors should shoulder any portion of the cost of environmental problems. Further, the Objectors do not suggest an alternative means of funding any environmental problems caused by the Trustee and Paradigm – because their sole objective is to reduce the costs to which they would be exposed.

There are any number of ways in which the available revenues could be distributed, but no one plan is perfect. While the proposed use of the Escrowed Funds has evolved over time, such that it will most probably will be used to address some, if not all, of the pre-bankruptcy contamination, all of the Settlers have been trying to address a difficult environmental problem as efficiently as possible, given the conflicting demands of bankruptcy law, and the limited resources available to the governments (and, since the site was placed on the National Priority List ("NPL") in 2010, the limited resources of the Superfund).

Under the plan developed by the Settlers, the Trustee and Paradigm have been working diligently, and will continue to work diligently, to address the environmental conditions at the Site by: 1) selling the Scrap Assets and Recovered Materials – thereby reducing the volume of hazardous substances on the site; 2) cleaning up any environmental problems that result from Paradigm’s and the Trustee’s activities; and 3) using any remaining Escrow Funds to remediate the environmental conditions that pre-dated the bankruptcy. In developing this program, the Settlers have been cognizant of the potential cost of the environmental response actions that may be required by U.S. EPA, and the concerns of the potentially responsible parties, which concern is reflected in the fact that under the Settlement Agreement would remove the \$10 million cap on the amount of the Escrowed Funds.

II. THE SETTLEMENT AGREEMENT INCREASES THE FUNDS DISTRIBUTED TO THE ESTATE

One purpose of the proposed Settlement Agreement is to resolve the Illinois EPA’s challenge to the Bankruptcy Court’s August 8, 2011 Order (Doc. 1629) allocating the proceeds of certain sales. The parties to the Settlement Agreement agreed to a redistribution that increases the amounts of funds to be distributed to the Estate for the future benefit of unsecured creditors.

The Settlement Agreement now provides for the following distribution of the proceeds of the sales of Mixed Fines/Scrubber Sludge and the Furnace Cleanup (“P” means Paradigm, “C” means Commerce Bank, “E” means Estate, and “EF” means Escrowed Funds):

Sale	Gross Revenue \$\$	Direct Cost of Sales \$\$	Allocated Estate Operating Costs	Allocated Paradigm Operating Costs (3)	Net for Distribution	Distribution to be Paid
Mixed Fines/Scrubber Sludge Notice 12/1/10	1,475,807.75	526,100.25	250,000	250,000	475,807.75	P: 118,951.93 C: 166,532.56 E: 166,532.56 EF:23,790.39

Furnace Cleanup Notice 4/15/11	447,091.19	36,170.55	100,000	100,000	210,920.64	P: \$52,730.16 C: \$73,822.22 E: \$73,822.22 EF:10,546.03
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Under the formula proposed in the June 23, 2011 Motion to Allocate Distribution and approved by the Court's July 25, 2011 order, the Trustee would have distributed those revenues (\$1,475,807.75 and \$47,091.19) by subtracting Paradigm's "Processing Fee" as per the March 10, 2010 Motion to Clarify, then subtracting the Operating Expenses to derive the Net Revenue. That amount would have been divided according to the specified percentages, which would have worked out as follows:

- a) 30% off the top to Paradigm pursuant to the March 10, 2010 Motion to Clarify: \$542,742.33 for the Mixed Fines/Scrubber Sludge Sales and \$134,127.36 for the Furnace Cleanup Sales; and
- b) Reimbursement of Operating Costs: \$776,100.25 for the Mixed Fines/Scrubber Sludge Sales and \$136,170.55 for the Furnace Cleanup Sales.

The \$256,965.17 remaining from the Mixed Fines Scrubber Sludge Sales and the \$176,793.28 remaining from the Furnace Cleanup Sales would then have been split up as follows:

	Mixed Fines Scrubber Sludge Sales	Furnace Cleanup Sales
Paradigm 25%:	\$64,241.29	\$45,198.32
Trustee 35%	\$89,937.81	\$60,877.64
Commerce 35%	\$89,937.81	\$60,877.64
Escrow 5%	\$12,848.26	\$7,839.66

As mentioned above, the Illinois EPA objected (via an appeal to the District Court) to the distribution proposed by the Trustee and approved by the Bankruptcy Court, because, in the Illinois EPA's view, that payout was inconsistent with the APPA. This objection would be resolved by the proposed Settlement Agreement.

Thus for the Mixed Fines/Scrubber Sludge Sales, the Settlement Agreement would reduce Paradigm's payout from \$606,983.62 (\$542,742.33 + \$64,241.29) to \$368,951.93

(\$250,000 + \$118,951.93), increase the payment to both the Estate (for the benefit of unsecured creditors) from \$89,937.81 to \$166,532.56 and the Escrowed Funds from \$12,848.26 to \$23,790.39. The redistribution of the Furnace Cleanup Sales would reduce Paradigm's payout from \$179,325.68 (\$134,127.36 + \$45,198.32) to \$152,730.16 (\$100,000 + \$52,730.16), increase the payment to the Estate (for the benefit of unsecured creditors) from \$60,877.64 to \$73,822.22 and to the Escrowed Fund from \$7,839.66 to \$10,546.03.

The Settlement Agreement increases the funds distributed to the Estate for the benefit of Creditors and the Escrowed Funds (for the benefit of potentially responsible parties) from that provided in the originally approved allocation by \$89,539.33.

III. THE SETTLEMENT AGREEMENT'S REWRITE OF PARAGRAPH 4.5 (b) INCREASES THE COSTS COVERED BY PARADIGM'S BUYER FEE

Under the Settlement Agreement, the costs to be covered by Paradigm's Buyer Fee have been expanded from that required by the APPA and the March 10, 2010 Motion to Clarify. That leaves more revenue available for distribution to the Estate for the benefit of unsecured creditors.

The APPA defined Operating Expenses to include a wide range of costs IAD would incur in sales and processing of Estate Assets. The March 9, 2010 Motion to Clarify, shifted a number of those costs to Paradigm's processing fee when Paradigm agreed to:

Absorb all capital costs associated with the location, construction and installation of the Processing Facility as well as all operating expenses associated with the Processing Facility (except for personnel and administrative costs, specifically related to the bankruptcy estate including Trustee fees and applicable taxes).

The Settlement Agreement revises paragraph 4.5 of the APPA to greatly expand the costs covered by Paradigm:

The Buyer shall absorb all costs that are related to: (i) demolition, removal, and sale of Scrap Assets (Buyer has applied revenue from scrap sales to pay such

costs and shall not be liable to the Trustee or otherwise for reimbursement of such costs paid by such revenue); (ii) all costs of construction, labor, equipment, marketing, development, and logistics of the construction and operation of the Processing Facility to produce Recovered Materials; (iii) all costs of the sale of Recovered Materials and Unprocessed Materials; (iv) all costs for the development and implementation of the Work Plans; and (v) all costs of Buyer's compliance with Regulatory Agency requirements (except as provided in Section 5.2 (b) hereof). In return for absorbing all of these costs, Buyer shall receive the following percentage payments from the gross sales revenue from the sale of Recovered Materials and Unprocessed Materials: 30% for sales prior to March 31, 2012 and 40% for sales on or after March 31, 2012. This fee shall be defined as the "Buyer Fee." Direct costs (not including Seller's Operating Expenses) incurred by Seller to effectuate such sales shall be credited against the Buyer Fee and reimbursed at Trustee's discretion but in any event no later than the date of termination of the Agreement. The Buyer Fee shall remain at 40% of the gross sales revenue until the Total Purchase Price has been paid in full, after which the Buyer Fee shall change to 30% of gross sales revenue for the remainder of the Agreement.

The APPA had included many of those costs as a component of Operating Expenses to be paid out of Gross Revenue. Compare the original definition of "Operating Expenses" (APPA, p. 23) with the revised definition in the Settlement Agreement (par. 2.A.iii). The latter deletes all references to costs incurred by Paradigm as a deduction from Gross Revenue.

By rewriting Section 4.5(b) of the APPA, the Settlement Agreement increases the amount of Net Revenue available for distribution to the Estate for the benefit of unsecured creditors.

IV. CONCLUSION

The compromise embodied in the Settlement Agreement appropriately balances the interests of the signatories as well as those of the unsecured creditors. It increases the amount of money that will be available to address any environmental problems that may result from Paradigm/Trustee's actions as well as the significant pre-bankruptcy environmental contamination, and fosters the implementation of Paradigm's processing, which is likely to increase the return of value to the Estate from the disposition of Estate Assets - - while prudently providing the Estate with protection from possible liability flowing from the processing effort.

WHEREFORE, the United States of America and the Illinois Environmental Protection Agency pray that the objections be overruled and the Settlement Agreement be approved.

Respectfully submitted,

UNITED STATES OF AMERICA

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